

2011 DRAFTING REQUEST

Bill

Received: **09/29/2010**

Received By: **jkreye**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **Pawasarat**

May Contact:

Drafter: **jkreye**

Subject: **Tax, Business - credits**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

DOA:.....Pawasarat, BB0013 -

Topic:

Holding period for early stage seed and angel investments

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1	jkreye 09/29/2010	jdyer 09/30/2010	rschluet 09/30/2010	_____	cduerst 09/30/2010		

FE Sent For:

<END>

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9/30/10

FE Sent For:

<END>

JK

2011-13 Budget Bill Statutory Language Drafting Request

Topic: Clarify initial applicability for 3 year holding period for Early Stage and Angel Investments.

- Change Accelerate Wisconsin holding period
- Tracking Code: BB 0013
- SBO team: GGED
- SBO analyst: Jane Pawasarat
 - Phone: 267-6921
 - Email: jane.pawasarat@wisconsin.gov
- Agency acronym: Commerce
- Agency number: 143
- Priority (Low, Medium, High): Medium

Intent:

The Department of Revenue has interpreted the 2007 Act 20 modifications to mean that investments held as of December 31, 2007 must be maintained for a minimum of 3 years from the date of investment.

Under the original statutory provisions of 71.07 (5d), 71.07 (5b), 71.28 (5b), and 71.47 (5b), claimants were required to maintain the investment for a minimum of 12 months. 2007 Wisconsin Act 20 provided under 560.205 (3) that after 12/31/2007, investments were to be maintained for 3 years. The Department of Revenue statutes were amended in 2009 Wisconsin Act 28 to reflect the changes from 2007 Wisconsin Act 20. The Department of Commerce has interpreted these changes to mean that investments made after 12/31/2007 that earn tax credits must be maintained for 3 years. In the Department's opinion, it would be unfair to require investors that made investments prior to 12/31/2007 to maintain an investment 24 months longer than was required when they made the investment and the tax credit.

By the Department of Revenue's interpretation investments dating back to January 2, 2005 could conceivably be in violation of the requirement unless the equity was sold prior to January 1, 2008. This would effectively be changing the rules from the date the program was originated (first companies under the program were certified on January 7, 2005).

See attached



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0167/P1

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DOA:.....Pawasarat, BB0013 - Holding period for early stage seed and angel investments✓

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT ...; relating to: the budget.✓

Analysis by the Legislative Reference Bureau

TAXATION✓

INCOME TAXATION✓

Under current law, for calendar years beginning after December 31, 2007, a person who claims an early stage seed or angel investment income and franchise tax credit must paid back the amount of the credit, if the person holds the investment for which the credit relates for less than three years. This bill makes clear that investments made after December 31, 2007, must be held for at least three years in order for the investor to receive and keep the amount of the credit.✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

SECTION 1. 71.07 (5b) (d) 3. of the statutes is amended to read:✓

3

71.07 (5b) (d) 3. For calendar years beginning investments made after✓

4

December 31, 2007, if an investment for which a claimant claims a credit under par.

SECTION 1

(b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; s. 13.92 (1) (bm) 2.

SECTION 2. 71.07 (5d) (d) 1. of the statutes is amended to read:

71.07 (5d) (d) 1. For ~~calendar years beginning~~ investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; s. 13.92 (1) (bm) 2.

SECTION 3. 71.28 (5b) (d) 3. of the statutes is amended to read:

71.28 (5b) (d) 3. For ~~calendar years beginning~~ investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; s. 13.92 (1) (bm) 2.

SECTION 4. 71.47 (5b) (d) 3. of the statutes is amended to read:

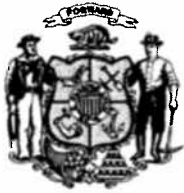
71.47 (5b) (d) 3. For ~~calendar years beginning~~ investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the

- 1 department, in the manner prescribed by the department, the amount of the credit
- 2 that the claimant received related to the investment. ✓

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; s. 13.92 (1) (bm) 2.

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(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0167/P1
JK:jld:rs

DOA:.....Pawasarat, BB0013 – Holding period for early stage seed and angel investments

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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INCOME TAXATION

Under current law, for calendar years beginning after December 31, 2007, a person who claims an early stage seed or angel investment income and franchise tax credit must pay back the amount of the credit, if the person holds the investment for which the credit relates for less than three years. This bill makes clear that investments made after December 31, 2007, must be held for at least three years in order for the investor to receive and keep the amount of the credit.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 71.07 (5b) (d) 3. of the statutes is amended to read:
3 71.07 (5b) (d) 3. For ~~calendar years beginning~~ investments made after
4 December 31, 2007, if an investment for which a claimant claims a credit under par.

1 (b) is held by the claimant for less than 3 years, the claimant shall pay to the
2 department, in the manner prescribed by the department, the amount of the credit
3 that the claimant received related to the investment.

4 **SECTION 2.** 71.07 (5d) (d) 1. of the statutes is amended to read:

5 71.07 **(5d)** (d) 1. For ~~calendar years beginning~~ investments made after
6 December 31, 2007, if an investment for which a claimant claims a credit under par.
7 (b) is held by the claimant for less than 3 years, the claimant shall pay to the
8 department, in the manner prescribed by the department, the amount of the credit
9 that the claimant received related to the investment.

10 **SECTION 3.** 71.28 (5b) (d) 3. of the statutes is amended to read:

11 71.28 **(5b)** (d) 3. For ~~calendar years beginning~~ investments made after
12 December 31, 2007, if an investment for which a claimant claims a credit under par.
13 (b) is held by the claimant for less than 3 years, the claimant shall pay to the
14 department, in the manner prescribed by the department, the amount of the credit
15 that the claimant received related to the investment.

16 **SECTION 4.** 71.47 (5b) (d) 3. of the statutes is amended to read:

17 71.47 **(5b)** (d) 3. For ~~calendar years beginning~~ investments made after
18 December 31, 2007, if an investment for which a claimant claims a credit under par.
19 (b) is held by the claimant for less than 3 years, the claimant shall pay to the
20 department, in the manner prescribed by the department, the amount of the credit
21 that the claimant received related to the investment.

22 (END)